THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.34511 OF 1998

4th June, 2007.

Between:

S. Jaga Reddy and others. .. Petitioners.

And

The District Collector, Rangareddy
District, Lakdikapool Hyderabad and others. .. Respondents.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.34511 OF 1998

ORDER:

The petitioners herein claim title and possession in respect of Ac.20.04 gts of land situated in Sy.Nos.594, 603 and 606 of Lemoor village, Kandukur Mandal of Ranga Reddy District, having purchased the same from one Gulam Ghouse Ansari who was the inamdar. After purchasing the land, on a request made by the petitioners, the 3rd respondent/Revenue Divisional Officer, Hyderabad East Division, issued occupancy certificate dated 31.10.1983 in favour of the petitioners under the provisions of A.P. (T.A) Inams (Abolition and Conversion into Ryotwari) Act, 1955 and on the basis of the same their names were mutated in the Revenue Records as pattadars. While so, the 5th respondent claiming that he is the son of the protected tenant attempted to interfere with the possession and enjoyment of the petitioners, compelling the petitioners to file O.S.No.32 of 1983 in the Court of the District Munsif, Ibrahimpatnam, for perpetual injunction. The said suit was decreed on 10.9.1982 and the same became final.

Subsequently, the 5th respondent filed a petition before the Mandal Revenue Officer, Kandukuru, contending that his name was

erroneously deleted from the pahanies of the years from 1979 to 1985. However, the same was dismissed by the 4th respondent-Mandal Revenue Officer, Kandukur, after due enquiry. Aggrieved by the same, the 5th respondent filed an Appeal before the 3rd respondent-Revenue Divisional Officer under Section 9 of the Record of Rights in Land and Pattedar Pass Books Act, 1971 which was also dismissed by order dated 6.9.1989.

Questioning the same, the 5th respondent filed a Revision Petition before the 2nd respondent-Joint Collector, Ranga Reddy District. Since there was delay in filing the said Revision Petition, the 5th respondent had also filed an application for condonation of the delay.

While the said proceedings were still pending before the 2nd respondent, the 5th respondent instituted fresh proceedings under the A.P. (Telangana Area) Inams (Abolition and Conversion into Ryotwari) Act, 1955 (for short, 'the Act of 1955') by filing an Appeal under Section 24 against the order of the Revenue Divisional Officer dated 31.10.1983 under which the petitioners were granted occupancy certificate by the 3rd respondent. The said Appeal was dismissed by the 1st respondent by order dated 7.8.1990 for non-prosecution. However, by virtue of the order of this Court in W.P.No.15931 of 1990 dated 17.4.1997, the Appeal was reopened for consideration on merits.

In the meanwhile, the 2nd respondent proceeded with the Revision Petition filed by the 5th respondent against the order dated 6.9.1989 and allowed the same by order dated 18.4.1998, thereby declaring that the 5th respondent is entitled to get the occupancy certificate under the provisions of the Act.

The said order is under challenge in this writ petition contending *inter alia,* that the 2nd respondent has no jurisdiction to record any

finding as to the validity of the occupancy certificate issued under the Act of 1955. It is also contended that the 2nd respondent committed a grave error in deciding the Revision Petition on merits without passing any orders on the application filed by the 5th respondent to condone the inordinate delay in filing the Revision Petition.

I have heard the learned counsel for both the parties and perused the material on record.

It is to be noted that the petitioners herein were granted occupancy certificate after due enquiry as provided under the Act of 1955. The 5th respondent who claims to be the legal heir of the protected tenant had challenged the said order and the said statutory Appeal is still pending before the 1st respondent. By virtue of the order of this Court in W.P.No.15931 of 1990 *status quo* regarding possession of the land in question shall be maintained till the disposal of the said Appeal. Thus, it is clear that the occupancy certificate in favour of the petitioners is subsisting and based on the same their names were mutated in the Revenue Records.

A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'Record of Rights Act, 1971') provides for preparation of record of rights in all lands in every village. Section 3 of the Act states that the records shall be brought up to date from time to time by the recording authority in the manner prescribed by inserting the names of all persons who are owners, pattadars, mortgagees, occupants or tenants of lands, apart from the details of nature and extent of respective rights of such persons. Section 4 of the Act further provides that any person acquiring any right as owner, pattedar, occupant or tenant of a land shall intimate in writing his acquisition of such right to the Mandal Revenue Officer within ninety days and, thereafter, under Section 5 of the Act, Mandal Revenue Officer shall determine as to whether the record of rights may be amended and shall carry out the amendment in the record of rights in accordance with such determination. Any order

passed by the Mandal Revenue Officer either making an amendment in the record of rights or refusing to make such amendment is appealable to the Revenue Divisional Officer. Under Section 9 of the Act, the Collector is the revisional authority, who is competent to call for and examine the record of any recording authority, either *suo motu* or on an application.

From the scheme of the Record of Rights Act, 1971 itself it is clear that the same deals with preparation and maintenance of record of rights by the authorities specified therein following the procedure prescribed.

It is true that it is open to the 2nd respondent, who is the revisional authority under the Record of Rights Act, 1971, to consider the Revision Petition filed by the 5th respondent and to pass appropriate orders after recording a finding as to the correctness of the amendment already made in the record of rights in favour of the petitioners. However, while exercising the said powers, the 2nd respondent cannot decide the validity of the occupancy certificate granted in favour of the petitioners under the provisions of Act of 1971, particularly when the legality or otherwise of the said occupancy certificate is the subject-matter of the Statutory Appeal pending before the 1st respondent and the order of Status Quo granted by this Court is in operation.

Hence, as rightly contended by the learned Counsel for the petitioners, the 2nd respondent committed an error in declaring that the 5th respondent is entitled to get occupancy certificate. Such a finding recorded by the 2nd respondent is undoubtedly beyond the scope of powers conferred under the Record of Rights Act, 1971 and therefore on that ground alone the impugned order is liable to be set aside.

Accordingly, the order impugned is hereby set aside and the writ petition is disposed of with a direction to the 2nd respondent to consider the matter afresh and pass appropriate orders in accordance

with law. Till such time, *status quo* as ordered by this Court on 14.12.1998 shall continue. No costs.

(G. ROHINI, J.)

4th June, 2007.
Kgr

Note:- CC in one week.